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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,573	03/22/2001	Hector F. DeLuca	1256-00721	9707

7590 10/21/2003

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EXAMINER

JIANG, SHAOJIA A

ART UNIT	PAPER NUMBER
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1617

18

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Non-Responsive Amendment

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 23, 2003 has been entered in Paper No. 16.

Applicant's request for continued examination (RCE) filed July 23, 2003 in Paper No. 16, and amendment and response, filed July 23, 2003 in Paper No. 17, are acknowledged, wherein claims 1-7 are cancelled and claims 8-14 are newly submitted. Currently, claims 8-14 are pending in this application.

Applicant is requested to note that the applicant **cannot**, as a matter of right, file a request for continued examination (RCE) to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined (i.e., applicant cannot switch inventions by way of an RCE as a matter of right) (emphases added). See MPEP § 819.

Applicant's amendment in response to the Office Action dated February 26, 2003 filed on July 23, 2003 in Paper No. 17 canceling all claims (claims 1-7) of the invention originally drawn to a method of maintaining milk production in a dairy cow fed a low phosphorus diet comprising the instant method steps herein, and newly submitting

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claims 8-14 directed to the invention of a method of reducing the amount of phosphorus in cow manure, comprising substituting a 1 α -hydroxylated vitamin D compound for some or all of the inorganic phosphorus in a diet of a cow and feeding said diet to said cow, that is **independent or distinct from the invention originally claimed** since they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01).

Thus, all claims of the original invention (claims 1-7) have been shifted by Applicant to another invention that is independent or distinct from the invention originally claimed.

The application currently contains no pending claims directed to the originally presented invention.

Therefore, the amendment is considered non-responsive to the previous Office Action.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Jiang, whose telephone number is (703) 305-1008. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

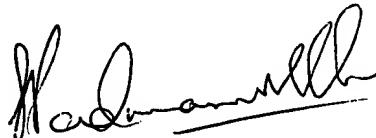
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan, Ph.D., can be reached on (703) 305-1877.

The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1235.

S. Anna Jiang, Ph.D.
Patent Examiner, AU 1617
October 14, 2003


SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER

10/24/03